

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE

Derek Potocki

v.

Civil No. 07-cv-071-SM

Warren Dowaliby, Superintendent,  
Strafford County House of  
Corrections, et al.<sup>1</sup>

**O R D E R**

Derek Potocki has filed a civil rights complaint, pursuant to 42 U.S.C. § 1983, alleging that he was subjected to unconstitutional treatment while he was incarcerated at the Strafford County House of Correction ("SCHC"). The matter is before me for preliminary review to determine whether, among other things, the complaint states any claim upon which relief might be granted. See United States District Court for the District of New Hampshire Local Rule ("LR") 4.3(d)(2); 28 U.S.C. § 1915(e)(2)(B).

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<sup>1</sup>In addition to Warren Dowaliby, the Superintendent of the Strafford County House of Correction ("SCHC"), Potocki names SCHC officers Kirk Derusha and Steve Pollared as defendants to this action.

As fully explained in my Report and Recommendation issued simultaneously with this Order, and without further comment on the merits of any of the claims raised by Potocki, I direct that (1) the excessive force claim proceed against Pollared, (2) the Harassment claim proceed against Derusha, and (3) the conditions of confinement claim proceed against Dowaliby. This Order shall serve to replace my Order of August 16, 2007, directing plaintiff to amend his complaint, which is withdrawn.

My review of the case filings indicates that plaintiff has filed summons forms for each of the defendants listed. The Clerk's office is directed to issue the summonses against defendants and forward to the United States Marshal for the District of New Hampshire (the "U.S. Marshal's office") the and copies of the complaint (document no. 1), the Report and Recommendation issued this date, and this Order. Upon receipt of the necessary documentation, the U.S. Marshal's office shall effect service upon defendants. See Fed. R. Civ. P. 4(c)(2).

Defendants are instructed to answer or otherwise plead within twenty days of service. See Fed. R. Civ. P. 12(a)(1)(A).

Plaintiff is instructed that all future pleadings, written motions, notices, or similar papers shall be served directly on

the defendants by delivering or mailing the materials to them or their attorney(s), pursuant to Fed. R. Civ. P. 5(b).

**SO ORDERED.**

  
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James R. Muirhead  
United States Magistrate Judge

Date: September 12, 2007

cc: Derek Potocki, pro se